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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Di Benedetto et al.

Attorney Docket No.: ANDIP006

Application No.: 10/026,311

Examiner: Not Assigned

Filed: December 21, 2001

Group: 2633

Title: METHODS AND APPARATUS FOR  
IMPLEMENTING A HIGH  
AVAILABILITY FIBRE CHANNEL  
SWITCH

**CERTIFICATE OF FACSIMILE**

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Attention: Attorney Paul Shanowski, Office of Petitions at facsimile telephone number (793) 308-6916 or (703) 305-4257 on November 3, 2003.

Signed: 

Leslie Russell

**RESPONSE TO DECISION ON PETITION (RENEWED PETITION UNDER 37 CFR**

**1.137(f))**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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NOV 03 2003

PETITIONS OFFICE

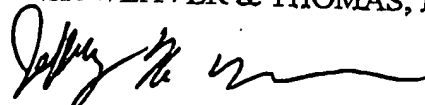
Sir:

In response to the Decision on Petition mailed September 30, 2003 (copy attached), please note an application disclosing the invention described in the above-referenced patent application was foreign filed on December 17, 2002. Please incorporate this information in Applicants' previously filed petition (August 19, 2003).

We believe there are no fees due with this filing. However, the Commissioner is authorized to charge any fees to Deposit Account No. 500388 (Order No. ANDIP006).

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP



Jeffrey K. Weaver

Reg. No. 31,314

P.O. Box 778  
Berkeley, CA 94704-0778  
(510) 843-6200

# BEYER WEAVER & THOMAS, LLP

## INTELLECTUAL PROPERTY LAW

2030 Addison Street, Seventh Floor, Berkeley, CA 94704  
Telephone: (510) 843-6200 Facsimile: (510) 843-6203  
www.beyerlaw.com

## FACSIMILE COVER SHEET

November 3, 2003

**Receiver:** Attorney Paul Shanoski/Office of Petitions  
USPTO

**TEL #:** 703-305-0011

**FAX #:** 703-308-6916 or 703-305-4257

**Sender:** Leslie Russell, Patent Secretary for:  
Jeffrey K. Weaver

**Re:** Renewed Petition(s) for  
Serial No(s): 10/026,311 (ANDIP006)  
10/034,160 (ANDIP001)  
10/058,722 (CISCP251) &

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Pages Including Cover Sheet(s): 4

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Please contact us should you need any further information.

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www.uspto.gov

Paper No. 6

BEYER WEAVER & THOMAS LLP  
P.O. BOX 778  
BERKELEY CA 94704-0778

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**SEP 3 0 2003**

**OFFICE OF PETITIONS**

In re Application of  
Marco Di Benedetto et al.  
Application No. 10/026,311  
Filed: December 21, 2001  
Attorney Docket No. ANDIP006  
Title: METHODS AND APPARATUS FOR  
IMPLEMENTING A HIGH AVAILABILITY  
FIBRE CHANNEL SWITCH

DECISION ON PETITION

This is a decision on the petition filed on August 22, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication<sup>1</sup>;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

On December 23, 2002, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, notification of the filing of the foreign or international application did not accompany this filing.

<sup>1</sup> See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at <http://www.uspto.gov/web/forms/index.html>.

On August 22, 2003, the instant petition was filed with the Office. Unfortunately, notification of the filing of the foreign or international application did not accompany this filing either.

As such, petitioner has not met the first requirement above.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign country or under a multinational agreement.

On September 29, 2003, the undersigned contacted the petitioner in an attempt to have the notification sent via facsimile transmission, but the petitioner's voice mail indicated that he would be out of town for the week. Obviously, as of the mail date of this decision, the required date has not been supplied.

Petitioner is reminded that if an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made, and any petition fee would be refunded.

In view of the foregoing, this petition is **DISMISSED**. Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(f)." Petitioner must submit the date which the foreign or international application was filed.

The reply to this letter may be submitted by mail<sup>2</sup>, hand-delivery<sup>3</sup>, or facsimile<sup>4</sup>.

**The application file will be retained in the Office of Petitions for two (2) months.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.



Paul Shanowski  
Attorney  
Office of Petitions  
United States Patent and Trademark Office

|                                 |                   |
|---------------------------------|-------------------|
| BEYER WEAVER & THOMAS, LLP      |                   |
| ATTY: <u>JKW</u>                | ASSOC: <u>EKK</u> |
| ACTION: <u>REC</u>              |                   |
| <u>RECONSIDERATION</u>          |                   |
| DUE DATES: <u>11-30-2003</u>    |                   |
| DOCKETED: <u>10/3/03</u>        | BY: <u>KEM</u>    |
| DOCKET NO.: <u>ANDIP 000605</u> |                   |

<sup>2</sup> Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

<sup>3</sup> Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

<sup>4</sup> (703) 308-6916, Attn: Office of Petitions.